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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,927	12/06/2000	Noritumi Sumimoto	1417-333	7442

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NIXON & VANDERHYE P.C.  
8th Floor  
1100 North Glebe Road  
Arlington, VA 22201-4714

EXAMINER

YOON, TAE H

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 09/729,927  
Examiner T. Yoon

Applicant(s) Sumimoto et al  
Group Art Unit 1714

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-4 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-4 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some\* ☐ None of the:
  - ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 288 298 in view of Jang et al (US 6,451,889 or 2002/0065343), Itoh et al (US 5,760,120), Fuhr et al (US 5,272,193), JP 10-237246 or JP 7-292233.

EP teaches the instant rubber polymer particles having an average particle diameter of 170 nm in Production of polybutadiene latex (a-2), page 6. The particle diameter distribution was very narrow and substantially no particles having particle diameter of 150 nm or less and 210 nm or more were present (lines 1-3 of page 7) which meets the instant invention. A rubber content and grafting degree are taught at page 4, lines 48-55.

The instant invention further recites the use of a phosphorus-based flame retardant over EP. However, EP discusses molded articles for home electrical appliances at page 2, line 19, and thus the use of a flame retardant would be a *prima facie* obviousness.

Jang et al (col. 10 of US'889 and sections [0037]-[0040] of US'343), Itoh et al (col. 5, lines 52-67) and Fuhr et al (col. 9, line 59 to col. 10, line 30) teach the instant phosphorus-based flame retardants and their use in a polymeric composition comprising a rubber. JP'246 (abstract and page 1) teaches the instant phosphorus-based flame retardants and their use in a polymeric

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composition comprising a rubber for electrical housing. JP'233 (abstract and col. 6) teaches the instant phosphorus-based flame retardants and their use in a polymeric composition for electrical housing.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to utilize the art well known phosphorus-based flame retardant of Jang et al, Itoh et al, Fuhr et al or JPs in EP since the use of a flame retardant in polymeric compositions is a routine practice in the art, especially in view of molded articles for home electrical appliances of EP, and since the use of instant phosphorus-based flame retardant in a polymeric composition comprising a rubber is well known absent showing otherwise.

Claims <sup>1-4</sup>~~1 and 4~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 288 298 in view of Jang et al (US 6,451,889 or 2002/0065343), Itoh et al (US 5,760,120), Fuhr et al (US 5,272,193), JP 10-237246 or JP 7-292233, and further in view of Kasahara et al (US 5,039,714) or Maeda et al (US 4,965,315).

The instant invention further recites the use of a lubricant. However, the use of a lubricant in a polymeric molding composition in order to improve processing or mold-release is a routine practice in the art as evidenced by Kasahara et al (col. 4, line 61) and Maeda et al (col. 7, line 7 and col. 9, line 68 to col. 10, line 1).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to further utilize ethylene bis-stearylamine of Kasahara et al or Maeda et al in above EP

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thereof since the use of a lubricant in a polymeric molding composition in order to improve processing or mold-release is a routine practice in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (703) 308-2389. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

THY/February 13, 2003



TAE H. YOON  
PRIMARY EXAMINER